

**§ 2700.81 Recusal and disqualification.**

(a) *Recusal.* A Commissioner or a Judge may recuse himself from a proceeding whenever he deems such action appropriate.

(b) *Request to withdraw.* A party may request a Commissioner or a Judge to withdraw on grounds of personal bias or other disqualification. A party shall make such a request by promptly filing an affidavit setting forth in detail the matters alleged to constitute personal bias or other grounds for disqualification.

(c) *Procedure if Commissioner or Judge does not withdraw.* If, upon being requested to withdraw pursuant to paragraph (b) of this section, the Commissioner or the Judge does not withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling. If the Judge does not withdraw, he shall proceed with the hearing, or, if the hearing has been completed, he shall proceed with the issuance of his decision, unless the Commission stays the hearing or further proceedings upon the granting of a petition for interlocutory review of the Judge's decision not to withdraw.

**§ 2700.82 Ex parte communications.**

(a) For purposes of this section, the following definitions shall apply:

(1) *Ex parte communication* means an oral or written communication not on the public record concerning any matter or proceeding with respect to which reasonable prior notice to all parties has not been given. A status or informational request does not constitute an ex parte communication.

(2) *Status or informational request* means a request for a status report on any matter or proceeding or a request concerning filing requirements or other docket information.

(3) *Merits of a case*, which shall be broadly construed by the Commission, includes discussion of the factual or legal issues in a case or resolution of those issues.

(b) *Prohibited ex parte communication.* There shall be no ex parte communication with respect to the merits of a case not concluded, between the Commission, including any member, Judge, officer, or agent of the Commission who is employed in the decisional process,

and any of the parties, intervenors, representatives, amici, or other interested persons.

(c) *Procedure in case of violation.* (1) In the event a prohibited ex parte communication occurs, the Commission or the Judge may make such orders or take such action to remedy the effect of the ex parte communication as circumstances require. Upon notice and hearing, the Commission may take disciplinary action against any person who knowingly and willfully makes or causes to be made a prohibited ex parte communication.

(2) A memorandum setting forth all ex parte communications, whether prohibited or not, shall be placed on the public record of the proceeding.

(d) *Inquiries.* Any inquiries concerning filing requirements, the status of cases before the Commission, or docket information shall be directed to the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Sixth Floor, Washington, DC 20006-3867.

**§ 2700.83 Authority to sign orders.**

The Chairman or other designated Commissioner is authorized to sign on behalf of the Commissioners, orders disposing of the following procedural motions: motions for extensions of time, motions for permission to file briefs in excess of page limits, motions to accept late filed briefs, motions to consolidate, motions to expedite proceedings, motions for oral argument, and similar procedural motions. A person aggrieved by such an order may, within 10 days of the date of the order, file a motion requesting that the order be signed by the participating Commissioners.

**§ 2700.84 Effective date.**

These rules are effective on May 3, 1993 and apply to cases initiated after they take effect. They also apply to further proceedings in cases then pending, except to the extent that application of the rules would not be feasible, or would work injustice, in which event the former rules of procedure apply.